

**Testimony of
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before the

**Subcommittee on Oversight and Investigations
U.S. House Committee on Energy and Commerce**

**“The Salmonella Outbreak: The Role of Industry in Protecting the Nation’s
Food Supply ”**

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INTRODUCTION

Good morning, Chairman Stupak, Ranking Member Walden, and Members of the Subcommittee. My name is Heather C. Isely, and I am Executive Vice President and part owner of Vitamin Cottage Natural Food Markets, Inc. We are also known to the communities we serve as “Vitamin Cottage,” “Natural Grocers,” or sometimes just “The Cottage.” I am pleased to be here today with our company’s Director of Special Projects, Mr. Alan P. Lewis.

In light of the serious and tragic reasons for this hearing, we very much appreciate the opportunity to provide our input to the subcommittee on our involvement with the Peanut Corporation of America (“PCA”) and to provide insight on how outbreaks like this one are dealt with by small-chain retailers. We are encouraged by President Obama’s recent call for increased food safety and by Chairman Waxman’s and this Committee’s unfailing persistence in improving food safety.

COMPANY HISTORY AND PROFILE

Vitamin Cottage was established in 1955 by my parents, Margaret and Philip Isely. They started the business by going door-to-door in Golden, Colorado, selling whole-grain bread and sharing nutrition information with people they met. Philip and Margaret Isely found that the more health and nutrition knowledge their neighbors possessed, the healthier the food they would buy and eat. Their door-to-door business was successful enough that within a short time they were able to open their first retail location – a modest storefront that looked like a cottage. Gradually they were able to build their purchasing power to buy at lower cost, which allowed more customers to afford their healthy offerings. To this day, combining nutrition education with affordable, healthy foods drives our business model.

Our business is still privately held and family-owned and operated by my family. Together we strive to carry on my parents’ legacy, and fifty-five years after they founded the company the goals of Vitamin Cottage – now Natural Grocers – remain the same. We focus on providing exceptional customer service, an extensive nutritional and health information service, and the highest quality products at affordable prices.

Natural Grocers has now grown from a tiny “mom and pop” business to a thirty-store chain with over one thousand employees in Colorado, New Mexico, and Texas. Whenever feasible, we add more stores based on the needs of individual communities. Our stores tend to be in the 10,000 square foot range, which is about 1/4 to 1/8 the size of a conventional supermarket. We stock approximately 10,000 carefully selected natural and organic food items, as well as an equally large selection of natural body care items, household goods, and nutritional supplements. We offer a full selection of healthy frozen foods, bulk foods, some cold prepared foods, prepackaged meats, poultry and fish, dairy products, and 100% organic produce. To maintain a scrupulously clean environment for our customers and to keep overhead costs low, we do *not* operate bakeries, butcher shops, cheese shops, hot prepared foods, salad bars, juice bars, coffee bars or other similar food preparation in our stores.

THE RECENT PCA RECALL

For over thirty years, Natural Grocers has offered organic peanut butter for purchase by our customers under its own “branded” label. We have small grinding machines in our stores into which trained employees place dry roasted peanuts; the peanut butter exits the machine into tubs labeled “Vitamin Cottage”, which are sealed. In recent years, Natural Grocers has sold about 5,000 pounds of fresh ground peanut butter each month. For the past few years, the dry roasted peanuts purchased for this product have been purchased from PCA. According to paperwork and verbal verification received from the company, all of this peanut stock was produced by PCA in their Plainview, Texas facility. Until the outbreak that is the subject of this hearing, Natural Grocers has never had any health issues associated either with its peanut butter or other private label products.

Beginning in November 2008, the Centers for Disease Control (“CDC”) identified a suspicious outbreak pattern of *Salmonella serotype Typhimurium* widely dispersed across the country. During their subsequent investigation, in cooperation with the Food and Drug Administration (“FDA”) and state public health agencies, the CDC linked the growing outbreak to peanut products produced by the PCA facility in Blakely, Georgia. On January 10th, 2009, PCA posted its first recall notice for PCA-made King Nut peanut butter. During January, PCA expanded its recall to all peanut butter products produced in Blakely, but publicly maintained that products from its other two plants were not implicated in the recall. During this time, Natural Grocers received extensive lists of hundreds of recalled products that potentially contained PCA-sourced ingredients. Daily (sometimes hourly), more products were removed from our shelves and recall list updates were posted both in stores and on our company websites. On January 21 of this year, FDA initiated investigations of PCA’s Texas and Virginia facilities. Natural Grocers was not notified of this inspection or any negative findings related to this inspection. Despite continuing quality assurances from personnel at the PCA-Texas plant, Natural Grocers quarantined its inventory of PCA peanut products on January 28th. On January 30th, Natural Grocers voluntarily recalled all unground and ground PCA peanut butter stock, and began notifying customers to return all previously purchased fresh ground peanut butter. On February 10, 2009, the FDA added a Vitamin Cottage fresh ground peanut butter recall notice to its web site.

Epidemiological Link to PCA-Texas Plant.

Of the total eighteen confirmed cases of *Salmonella* in Colorado, two patients presented the Colorado Department of Public Health (“CDPH”) with especially good data to trace back the outbreak. Based on what information was allowed to be released to us under patient privacy rules, both case-patients were four-year-old children with severe allergies, from different households. Due to the allergies, both families carefully controlled the diet to exclude tree nuts. Natural Grocers fresh ground peanut butter was reported to be one of the few peanut-related products the boys were allowed to consume, since it was a safe, single-ingredient product produced in a nut grinder used exclusively for peanuts. These reports, combined with our confirmation that we used PCA-Texas peanut butter stock in this product, led investigators to conclude that there existed a “possible association” between these two case patients, our fresh

ground peanut butter, and the PCA Texas plant. (Neither of these case-patients was reported hospitalized.)

According to our understanding based on conversations with the CDPH, there have been two hospitalizations of Colorado case-patients; one of these case-patients did not report consuming PCA peanut butter, while the other had eaten some PCA peanut butter along with several other suspect foods.

Of the dozens of peanut and peanut butter samples tested, there are only two positive tests for the outbreak strain of Salmonella. However, these samples are of limited value to the trace-back investigation because the samples were acquired from opened containers taken from households where salmonella was present.

Company Participation with CDC/FDA Trace-Back Investigation

Natural Grocers became one of the primary reference companies of the CDC, FDA, and the CDPH trace-back investigation for a number of reasons:

- The company had a long history of using PCA peanuts and maintained a record of lot numbers relevant to the outbreak.
- The company sold a large quantity of single-ingredient peanut product, which could help eliminate other ingredients as possible sources of the salmonella contamination. (Most other recalled products used PCA peanut products along with many other ingredients.)
- Our retail locations were very well maintained and clean, and we did not allow customers to operate (and therefore potentially contaminate) our peanut butter grinding machines. Trained staff following strict food safety guidelines in grinding the peanuts and cleaning the machines. (This is in stark contrast to other retailers, who allow unsupervised customer access to peanut butter grinders and to the bulk peanut stock.)
- Our peanut butter grinders were meticulously maintained and cleaned, so that extensive pathogen testing on the equipment successfully eliminated the machines as potential sources of the salmonella outbreak strain.
- We have one grinder in each store dedicated to peanut butter; it is not shared with other products (either intentionally or accidentally by customer usage).
- Of the fourteen or so initial confirmed Salmonella cases in our marketing area, six cases reported having PCA peanut butter from Vitamin Cottage in their pantries, and two of these patients were on carefully controlled diets and reported eating only PCA peanut butter as the only potential source of infection.
- Natural Grocers was willing and able to fully and proactively support all public health authorities, and dedicated several high-level employees to help the various public health agencies in the trace-back investigation.
- We were able to provide hundreds of PCA peanut samples from both sealed and open containers, with associated lot numbers, to FDA inspectors within hours of their request.
- Natural Grocers conducted its own extensive testing on unground PCA peanuts, unsold ground PCA peanut butter, and customer-returned PCA peanut butter in early February via federally accredited microbiology laboratories. (100% of these tests were negative

for Salmonella; all lab results are included in our documentation previously submitted to the Committee.)

FDA FOOD PROTECTION PLAN

We have carefully reviewed the 2007 FDA Food Protection Plan to see how we can support our government's efforts toward improved food safety. Below is a representative checklist of responsibilities and obligations that will fall to Natural Grocers when an improved food safety system is fully implemented. Please know that we are in full compliance for our part in this shared effort to ensure that American consumers can trust that the food they buy is safe to eat. The FDA Plan, is organized with three principles: Prevention, Intervention, and Response. Here is our current status in regard to compliance with these plans:

PREVENT Food-borne Contamination

- ✓ Source food domestically when possible.
- ✓ Source products and ingredients from known reliable companies who follow current Good Manufacturing Practices.
- ✓ Maintain food handling facilities that are compliant with US government, state, county and local regulations and guidance.
- ✓ Continually improve our internal food safety program and share significant advances with industry partners and the government authorities.
- ✓ Pay special attention to imported foods and be aware of potential criminal or terrorist activity.
- ✓ Institute sample testing of food products identified as high-risk.

INTERVENE at Critical Points in the Food Supply Chain

- ✓ Increase quality and frequency of food processing facility inspections.
- ✓ Assist in education employees and consumers about food-borne illness awareness and prevention at all levels of the food production system.
- ✓ Assist in educating food producers about food-borne illnesses.
- ✓ Report possible dangers present at a food processing facilities.
- ✓ Implement appropriate inspection, tracking, reporting, auditing and training programs.

RESPOND Rapidly to Minimize Harm

- ✓ Report positive pathogen tests within 24 hours and quarantine product
- ✓ Maintain adequate and accessible trace-back information beyond the shelf life of a product.
- ✓ Voluntarily recall potentially contaminated products.
- ✓ Provide the means to notify consumers within our reach about immediate dangers of potentially contaminated food once we have been notified of them.
- ✓ Cooperate with all investigations related to food borne illnesses.
- ✓ Allow emergency access to certain records and facilities related to a potential food safety threat.

We are proud to report to the Committee today that Natural Grocers is substantially compliant with key elements of the proposed Food Safety plan.

Affect of Proposed FDA Food Safety System on the Current Salmonella Outbreak

According to reports, PCA was able to operate “under the radar” of local, state and federal regulatory agencies while disregarding even basic food safety procedures. We agree with the FDA that the burden should be placed on private industry to develop and implement comprehensive food safety requirements as needed for their particular situation, equipment, foodstuffs and type of processing. We also agree that highly competent and empowered third party inspection and audit teams would probably have discovered, reported, and corrected alleged PCA violations and potentially avoided the current Salmonella outbreak. And we agree that at very least, a legal requirement to report positive pathogen results and destroy contaminated product, if complied with, would have at least limited the scope of the outbreak. Natural Grocers relied on PCA’s representations of compliance with Good Manufacturing Practices, its certificate of compliance with the National Organic Program from an USDA accredited agency (the highly respected Texas Dept of Agriculture) and other information to determine that PCA’s products were safe for consumption. However, a number of competent individuals – whether inside the plant, with government agencies, or with private companies -- appear to have had knowledge of material violations of food safety practices at PCA plants, yet failed to intervene.

Peanuts, until recently, have generally not been considered high risk for Salmonella contamination and would not have been subject to sampling and testing at the retail level under FDA risk assessment guidelines. Subsequent to this outbreak, we are sample testing each lot of peanut butter stock from our new supplier. Stock will not be released for use unless all tests come back negative.

As part of our existing internal food-borne illness alert system, we encourage our customers to report any possible bad health affects they suspect may be caused by the food we sell. We have received notice from three customers during the four months of this outbreak who stated they became ill with various gastrointestinal complaints, and had in the prior days consumed PCA peanut butter among many other foods. (The CDPH was informed verbally of these three reports.) After our store staff record the customers’ information, our Home Office staff contacts the customer for follow up if they have provided contact information. It is our opinion that given the information in these reports there would have been no reporting requirement under the proposed rules, because there was no confirmation possible via lab test, and the cases were unrelated in time, location, symptoms or duration of illness. Had these reports contained critical events, we would have asked the consumer to contact the FDA district office to make a formal consumer food-borne illness complaint. These reports are included in our responsive documents, and we would welcome guidance from the Committee on our responsibilities associated with them.

OUR APPROACH TO FOOD SAFETY

Natural Grocers was founded in 1955 for the sole purposed of improving our family’s and our neighbors’ health through better nutrition using a wholesome balanced diet. This was at

a time when a good working knowledge of nutrition was quite rare, and when highly processed foods with many questionable ingredients filled the shelves of most stores. Please see our website's statement on *What We Don't Sell and Why* – our first line of defense in regard to food safety is not to allow potentially dangerous substances into the foods we sell. Some of these substances are more immediately dangerous than others; however, when you keep other families as loyal customers over four generations, like we have, the subtle long term cumulative affects of even minute amounts of risky substances really, really matters. As a guiding principle, we will not sell a product today if it means possibly causing someone harm at any time in the future.

In addition to setting very high standards for the products we sell, we also set very high standards for the companies from which we buy. For each of the quality products on our shelves, it is certainly possible to find a much less expensive stand-in that might sell just as well but not really have the same nutritional value or meet our clean food standards. We only work with companies that have rigorous and transparent quality control standards. For critical categories such as meat and poultry, we personally inspect the operations and monitor their compliance with our own set of standards. These inspections are in addition to all of the health department and USDA protocols already in place.

Comprehensive Science-Based Approach to Nutrition and Food Safety

Our approach to food safety often puts us out ahead of government. We are often in the position of educating customers about why our safety standards are much more broad and strict than the government's.

When new research is published, we as a company proactively deal with potentially dangerous or unhealthy products. The government regulatory process is much more complicated – it has to encompass the values and concerns of hundreds of millions of constituents, many of whom have irreconcilable views. I will share a few examples of how Natural Grocers has already responded well in advance of new government rules being issued, based on the generally accepted conclusions of the scientific community.

The reason our internal food safety standards often exceed government standards is that as a private company we can approach food safety with a different starting question. We ask "Might this Substance do Harm?". This is a significantly different approach than required of public health authorities, who start by asking if an ingredient is "Generally Recognized As Safe." To be clear, we understand why legislators and regulators take a different approach to clearing new foods or medicines, and we are not criticizing that approach or suggesting it be modified. We would agree that one of the government's roles as the delegated representative of the common good is to prevent harm being done to the whole by any one individual's (or corporation's) acts. Nevertheless, when the government cannot demonstrate harm being done by a substance, it is unlikely to have cause to promulgate regulations.

While Natural Grocers fully supports and complies with this approach to creating policy that protects the public, we operate our business on behalf of a constituency that asks for a more stringent standard of protection. Clearly, our company's offerings do *not* appeal to everyone. To illustrate this point, try imagining the grocery store where you shop: it is probably almost as big

as a football field with row upon row of processed packaged goods lined up every three yards between the end zones and sidelines. In the stands surrounding the field are produce, dairy products, a deli, a meat and a fish counter. Now, imagine that store without any products that contain artificial colorings or preservatives. If you are doing this exercise right, all those shelves on the turf just lost most all of their products. Now take away dairy and animal products created with added growth hormones and antibiotics and take away produce grown with non-organic pesticides, herbicides, and cleaners (or co-mingled with produce that was). By now you should have in your mind's eye a huge empty stadium with row after row of empty seats, empty shelves, empty dairy cases, and empty produce aisles.

Natural Grocers will not sell just anything to turn a profit.. And for good reason, because our core customers, many of whom encounter difficulty shopping anywhere else, rely on us. Consider:

- Customers with severe gluten allergies prefer to shop where there is no gluten contamination in the air from an in-store bakery;
- Customers with compromised immune systems due to chronic illness or chemotherapy require almost sterile conditions to stay well. This is very difficult to accomplish with butcher shops and delis on site;
- Customers hypersensitive to odors can become nauseated in a conventional grocery. We do not waft heavy scents through our stores via cooking or artificially “improved” household goods;
- Customers who are uncomfortable with animal blood and carcasses appreciate not seeing or smelling fish and animal carcasses on display. We buy only pre-packaged meat, poultry and fish;
- Customers sensitive to the harsh chemicals found in conventional household items feel safer knowing our products are selected with their needs in mind; and,
- Customers who are vigilant parents of young children, or vigilant children of aging parents, who trust that we only stock foods that are good, clean, and safe for their vulnerable loved ones to consume.

For every potential customer who is unhappy that we won't sell them Tide Ultra detergent, just-baked sweet rolls or bowls of seafood “medley,” there is another that is very happy that we don't. Another very important reason for avoiding store-prepared foods is that they tend to increase the cost of food while decreasing its nutritional value. Since our customers are often focused on the principles of clean food and good nutrition, and, tend to be quite frugal, our offerings lean toward simple, natural ingredients. Healthy food does no good if you can't afford to buy it.

CONCLUSION

Again, I appreciate the opportunity to testify before the Subcommittee, and welcome any questions you may have.